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REPORT OF THE INTERNATIONAL LAW COMMISSION ON THE WORK OF ITS FORTY-SEVENTH SESSION

Report of the Sixth Committee

Rapporteur: Mr. Walid OBEIDAT (Jordan)

I. INTRODUCTION

1. At its 3rd plenary meeting, on 22 September 1995, the General Assembly, on the recommendation of the General Committee, decided to include in its agenda the item entitled "Report of the International Law Commission on the work of its forty-seventh session" and to allocate it to the Sixth Committee.

2. In connection with the item, the Sixth Committee had before it the following documents:

(a) Report of the International Law Commission on the work of its forty-seventh session; 1/

(b) Note by the Secretary-General containing the text of the draft articles adopted by the International Law Commission on topics considered at its forty-seventh session (A/50/402).

3. The Sixth Committee considered the item at its 12th to 25th and 44th meetings, from 12 to 20 and 25 to 30 October and on 22 November 1995. The summary records of those meetings contain the views of the representatives who spoke during the Committee's consideration of the item (A/C.6/50/SR.12-25 and 44).

1/ Official Records of the General Assembly, Fiftieth Session, Supplement No. 10 (A/50/10).

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4. At the 12th meeting, on 12 October, the Chairman of the International Law Commission at its forty-seventh session introduced chapters I, II, IV and V of the Commission's report on the work of that session. At the 19th meeting, on 20 October, he introduced the remaining chapters of the report. At the 23rd meeting, on 27 October, the Chairman of the Commission made a statement in the light of the debate.

II. CONSIDERATION OF DRAFT RESOLUTION A/C.6/50/L.7

5. At the 44th meeting, on 22 November, the Committee had before it a draft resolution submitted by its Chairman, entitled "Report of the International Law Commission on the work of its forty-seventh session" (A/C.6/50/L.7).

6. At the same meeting, the Committee adopted draft resolution A/C.6/50/L.7 by consensus (see para. 8).

7. A statement was made by the representative of the United States of America (see A/C.6/50/SR.44).

III. RECOMMENDATION OF THE SIXTH COMMITTEE

8. The Sixth Committee recommends to the General Assembly the adoption of the following resolution:

Report of the International Law Commission on the work of its forty-seventh session

The General Assembly,

Having considered the report of the International Law Commission on the work of its forty-seventh session, 2/

Emphasizing the importance of furthering the progressive development of international law and its codification as a means of implementing the purposes and principles set forth in the Charter of the United Nations and in the Declaration on Principles of International Law concerning Friendly Relations and Cooperation among States in accordance with the Charter of the United Nations, 3/

Emphasizing also the role of the International Law Commission in the fulfilment of the objectives of the United Nations Decade of International Law,

Recognizing the desirability of referring legal and drafting questions to the Sixth Committee, including topics that might be submitted to the

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2/ Ibid.

3/ Resolution 2625 (XXV), annex.

International Law Commission for closer examination, and of enabling the Sixth Committee and the Commission further to enhance their contribution to the progressive development of international law and its codification,

Recalling the need to keep under review those topics of international law which, given their new or renewed interest for the international community, may be suitable for the progressive development and codification of international law and therefore may be included in the future programme of work of the International Law Commission,

Stressing the usefulness of structuring the debate on the report of the International Law Commission in the Sixth Committee in such a manner that conditions are provided for concentrated attention on each of the main topics dealt with in the report,

Wishing to enhance further the interaction between the Sixth Committee as a body of government representatives and the International Law Commission as a body of independent legal experts, with a view to improving the dialogue between the two organs,

1. Takes note with appreciation of the report of the International Law Commission on the work of its forty-seventh session and of the Commission's efforts to advance the work currently under consideration;

2. Notes the intentions of the International Law Commission for the programme of work for the last year of office of its members;

3. Urges the Commission at its forty-eighth session:

(a) To resume the work on the draft Code of Crimes against the Peace and Security of Mankind in such a manner that the second reading of the draft Code may be completed at that session;

(b) To resume the work on the draft articles on State responsibility in such a manner that the first reading of that draft may be completed at that session, taking into account the divergent views expressed during the Sixth Committee's debate on the topic, so that alternative approaches may be developed when necessary;

(c) To resume the work on the topic "International liability for injurious consequences arising out of acts not prohibited by international law" in order to complete the first reading of the draft articles relating to activities that risk causing transboundary harm;

4. Notes the beginning of the work on the topics "The law and practice relating to reservations to treaties" and "State succession and its impact on the nationality of natural and legal persons", and invites the Commission to continue its work on these topics along the lines indicated in the report;

5. Invites States and international organizations, particularly those which are depositaries, to answer promptly the questionnaire prepared by the Special Rapporteur on the topic concerning reservations to treaties;

6. Requests the Secretary-General to again invite Governments to submit as soon as possible relevant materials, including treaties, national legislation, decisions of national tribunals and diplomatic and official correspondence relevant to the topic "State succession and its impact on the nationality of natural and legal persons";

7. Expresses its appreciation to the Secretary-General for the update of the survey of State practice relevant to international liability for injurious consequences arising out of acts not prohibited by international law, prepared by the Secretariat in 1984; 4/

8. Notes the suggestions of the International Law Commission to include in its agenda the topic "Diplomatic protection" and initiate a feasibility study on a topic concerning the law of the environment, and decides to invite Governments to submit comments on these suggestions through the Secretary-General for consideration by the Sixth Committee during the fifty-first session of the General Assembly;

9. Requests the International Law Commission:

(a) To examine the procedures of its work for the purpose of further enhancing its contribution to the progressive development and codification of international law and to include its views in its report to the General Assembly, at its fifty-first session;

(b) To continue to pay special attention to indicating in its annual report, for each topic, those specific issues, if any, on which expressions of views by Governments, either in the Sixth Committee or in written form, would be of particular interest in providing effective guidance for the Commission in its further work;

10. Requests the Secretary-General to invite Governments to comment on the present state of the codification process within the United Nations system and to report thereon to the General Assembly at its fifty-first session;

11. Takes note of the comments of the International Law Commission on the question of the duration of its session, as presented in its report, 5/ and expresses the view that the requirements of the work for the progressive development of international law and its codification and the magnitude and complexity of the subjects on the agenda of the Commission make it desirable that the usual duration of its sessions be maintained;

12. Reaffirms its previous decisions concerning the role of the Codification Division of the Office of Legal Affairs of the Secretariat and

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4/ Yearbook of the International Law Commission, 1985, vol. II, part I (addendum).

5/ Official Records of the General Assembly, Fiftieth Session, Supplement No. 10 (A/50/10), para. 513.

those concerning the summary records and other documentation of the International Law Commission;

13. Once again expresses the wish that seminars will continue to be held in conjunction with the sessions of the International Law Commission and that an increasing number of participants from developing countries will be given the opportunity to attend those seminars, appeals to States that can do so to make the voluntary contributions that are urgently needed for the holding of the seminars, and requests the Secretary-General to provide the seminars, from within existing resources, with adequate services, including interpretation, as required;

14. Requests the Secretary-General to forward to the International Law Commission, for its attention, the records of the debate on the report of the Commission at the fiftieth session of the General Assembly, together with such written statements as delegations may circulate in conjunction with their oral statements, and to prepare and distribute a topical summary of the debate, following established practice;

15. Recommends that the debate on the report of the International Law Commission at the fifty-first session of the General Assembly commence on 4 November 1996.